

ESTABLISHING A SANITARY CODE GOVERNING THE
OPERATION OF RESTAURANTS IN THE DISTRICT OF
COLUMBIA

DECEMBER 13 (legislative day, DECEMBER 7), 1943.—Ordered to be printed

Mr. OVERTON, from the Committee on the District of Columbia,
submitted the following

REPORT

[To accompany S. 1340]

The Committee on the District of Columbia, to whom was referred the bill (S. 1340) to establish a sanitary code governing the operation of restaurants in the District of Columbia, having considered the same, report favorably thereon with amendments and recommend that the bill do pass.

This bill has one major purpose—to set up in the District of Columbia a system of grading for restaurants which will bring the power of public opinion to bear as an agency for enforcement of the maintenance of sanitary conditions.

With this purpose, your committee is in hearty accord.

The bill has been redrafted, however, so as to provide greater flexibility through a grant of authority to the Commissioners of the District of Columbia to prescribe standards for restaurant grading. It is the feeling of your committee that provision of such standards in detail in an act of Congress would not permit sufficient flexibility to meet changed conditions which may occur. Your committee believes the existing District of Columbia restaurant regulations can be strengthened by adopting some of the standards set forth in the bill as originally introduced but feel that such changes should be made by the Commissioners of the District of Columbia, by ordinance, rather than by an act of Congress. Specific recommendations for changes of this nature which are deemed desirable are made at another point in this report.

The principle of restaurant grading is advocated by the United States Public Health Service, and the language of the bill herewith reported is substantially similar to the recommended standard code for the regulation of eating and drinking standards, promulgated by the United States Public Health Service in 1940.

The present District of Columbia restaurant regulations, which became effective April 1, 1942, set up good standards.

The greatest problem is that of enforcement. Until very recently, enforcement was entirely through penalties in the nature of fines. Recently, as a result of various factors, including considerable newspaper publicity, certain restaurants have been cited for revocation of license because of repeated or serious violations. Fines for violations have in nearly all cases been relatively small, at least until recent months, and have not constituted a sufficient threat to make possible strict enforcement. It is the view of your committee that the weight of public opinion, brought into play by use of the restaurant grading system, would constitute a means of enforcement much more efficacious than mere fines. To further strengthen enforcement, the bill provides for a maximum penalty for violations of \$500 fine or 90 days' imprisonment, or both, as compared with a maximum fine of \$300 provided for under the existing ordinance promulgated by the District of Columbia Commissioners.

The proposed bill does not cover boarding houses because it was desired to confine its provisions to institutions and organizations serving the general public. Boarding houses presently are covered by regulations issued by the District of Columbia Commissioners, which would not be superseded or revoked by the provisions of this bill.

The definition of "restaurant" in the bill is so phrased as to include delicatessens and caterers on the theory that the size of an eating place should not be the criterion of its cleanliness and sanitation, and that any establishment which prepares food for public consumption should be required to comply with the restaurant code regardless of whether the same establishment also sells packaged food or performs other functions or services not normally associated with a restaurant.

Itinerant restaurants are covered under a special section of the bill on the theory that it is desirable to give the Health Officer the utmost discretion and the most rigid control possible over such eating places.

While the bill provides for inspection of all restaurants "at least every 6 months," there is obviously nothing to prevent more frequent inspections, and your committee believe it is reasonable to assume that the Health Officer will make inspections as frequently as he deems desirable and as his available force makes possible, just as he does under the existing ordinance.

The Commissioners' ordinance now in effect does not give any control over restaurants in Government departments or buildings, due to the fact that the District of Columbia Commissioners, who promulgated this ordinance, have no power over such establishments. The bill specifically provides that Government restaurants shall be operated in conformity with the same standards applied to other restaurants in the District of Columbia; but to avoid conflicts of authority, places responsibility for inspections of Government restaurants, to assure enforcement of such standards, upon the United States Public Health Service rather than upon any agency of the District of Columbia. The Federal Security Agency has expressed opposition to placement upon the Public Health Service of this duty of inspecting Government restaurants; but it is the view of your committee that this question is one for the Congress in its discretion to decide; and your committee consider the position of the Federal Security Agency, in this regard, as not well taken.

Under the definition of "Government restaurant" in section 1 of the bill, a restaurant operated primarily for purposes of private gain, even though on premises owned by the Federal Government, would be subjected to exactly the same regulation, in exactly the same way, as any other competitive eating place in the District of Columbia.

Section 2 of the bill requires a permit from the Health Officer for operation of any restaurant or itinerant restaurant. This section does not revoke or affect the existing provisions of the District of Columbia Code requiring restaurant operators to obtain an annual license, paying a fee therefor. At the present time, the Health Officer is required to certify that existing regulations have been complied with before a restaurant license can be issued. The provision of section 2 in the proposed bill is intended to strengthen the power of the Health Officer by giving him direct control over permits. It should be noted that under existing law, while a license, once issued, can be revoked by the Commissioners, in practice such licenses are seldom revoked, and then only after lengthy proceedings before the Board of Revocations. The proposed bill, while providing for a hearing, gives the Health Officer the power to revoke a restaurant permit in his discretion for serious or repeated violations. A right of hearing before the Commissioners of the District of Columbia is granted by this section to the holder of a permit which is either suspended or revoked, with authority vested in the Commissioners to reverse the action of the Health Officer.

Section 3 of the proposed bill is necessary for effectuation of the restaurant grading principle. It should be noted this section gives the Health Officer control over the form of notice to be displayed, as well as over the place wherein it is displayed, and over the form of notice to be written or printed on restaurant menus.

Section 4 grants authority for condemnation of food which is similar to authority already vested in the Health Officer by previous legislation. This section was inserted in the bill on the theory that since it is a provision vital to restaurant operation and regulation, it should be specifically included in any restaurant code enacted by the Congress. It should be noted that the provision of the existing law (title 22, sec. 3418, District of Columbia Code) makes it the duty of the Health Officer "to inspect all food possessed or offered for sale, and condemn, denature, destroy, seize, or remove such food as may be unfit for consumption"; the language of the proposed bill authorizes the Health Officer to "condemn or forbid the sale of, or cause to be removed or destroyed, any restaurant food or drink which he finds to be unwholesome." Thus, as to restaurant food, the proposed bill vests a greater power in the health Officer than was vested by the previous act, in that it makes his finding that such food is unwholesome conclusive as to the fact.

Section 5 contains the provision previously referred to, stipulating inspections at least once every 6 months. This section also requires posting of the inspection report on the restaurant premises (not now required under the Commissioners' ordinance) and the filing of a copy of each such report with the Health Department. This section also makes it mandatory upon the Health Officer to take disciplinary action by degrading or suspension of permit in the case of any violation found repeated at the time of the next subsequent inspection. Under the existing ordinance, it would be possible for a violation to be found repeated any number of times without any result more

severe than repeated issuance of warnings to the restaurant operator responsible.

Section 6 of the bill provides that standards for restaurant grading shall be prescribed by the Commissioners of the District of Columbia.

Section 7 makes it a violation of the act to operate a restaurant other than in conformity with the minimum standards prescribed by the Commissioners.

Section 8 governs the procedure for regrading a restaurant which has been degraded, or restoring a permit which has been revoked, except as such regrading or restoration of permit may be ordered by the Commissioners under provisions of section 2.

Section 9 contains the provisions concerning itinerant restaurants, previously referred to.

Section 10 provides for compliance by Government restaurants with the minimum standards prescribed by the Commissioners.

Section 11 is the penalty clause.

Section 12 provides that the act shall be effective 3 months from the date of its approval, except as to the duties imposed upon the Commissioners, by sections 6 and 9, to promulgate standards for the grading of restaurants, and regulations governing itinerant restaurants, within 1 month from the date of approval of the act, so as to allow 2 months within which restaurants and itinerant restaurants may bring themselves into compliance with such standards and regulations before the act becomes effective.

For the purpose of strengthening the existing District of Columbia restaurant regulations, your committee suggest that the Commissioners of the District of Columbia provide by ordinance for the following amendments to section 3 of such regulations:

Amend the first paragraph of subsection H to read as follows:

H. Construction and Location of Utensils and Equipment: All eating and cooking utensils and all show cases and display cases, or windows, counters, shelves, tables, refrigerating equipment, and other equipment shall be so constructed and so located as to be easily cleaned and shall be kept clean and in a safe and sanitary condition. Utensils containing or plated with cadmium or lead shall not be used: *Provided*, That solder containing lead may be used for jointing. In new establishments or in establishments where new installations of equipment are made, a minimum of thirty (30) inches of working space shall be provided between counters, back bars, and work tables wherever located.

In the third line of subsection I, change the word "compartment" to "sink".

Amend the first sentence of subsection K to read as follows:

K. Cleansing and Bactericidal Treatment of Eating and Cooking Utensils and Equipment: All equipment, including display cases, windows, counters, shelves, tables, refrigerators, stoves, hoods, sinks, and all utensils shall be kept clean and free from dust, dirt, insects, and all contaminating material.

Amend the second paragraph of subsection K to read as follows:

All except single-service eating and drinking utensils shall be thoroughly cleaned and sterilized and shall at the time of service to the public be thoroughly clean and sterilized. All multi-use containers and utensils used in the preparation, cooking, and serving of food and drink shall be thoroughly cleaned and sterilized immediately following the day's operations and so handled and kept as to be protected from contamination. Drying cloths, if used, shall be clean and shall be used for no other purpose.

In subsection M, change the period after the second sentence to a comma and insert:

and, if shucked, shall be kept until used in the containers in which they were placed at the shucking plant.

Strike out the period at the end of subsection Q and insert the following:

or is a carrier of such disease. If the operating proprietor or manager of any restaurant suspects that any food handler has contracted any disease in a communicable form or has become a carrier of such disease he shall notify the Health Officer immediately

Strike out the last sentence of subsection S and insert the following:

No food handler shall use or be permitted to use tobacco in any form while on duty and engaged in the preparation, handling, or serving of food.

Strike out the period at the end of the second sentence in paragraph numbered (2) of subsection V and insert the following: "and shall be kept clean."

Section 9 of the bill imposes a duty upon the Commissioners to prescribe regulations for itinerant restaurants. It is the suggestion of the committee that such regulations shall include provisions substantially similar to the following:

Any itinerant restaurant shall be located in clean surroundings and kept in a clean and sanitary condition.

It shall be so constructed and arranged that food, drink, utensils, and equipment will not be exposed to insects or to dust or other contamination.

Only food and drink which is clean, wholesome, and free from adulteration shall be sold or served.

An adequate supply of water of safe, sanitary quality shall be easily available and used for drinking and for cleaning utensils and equipment.

If multi-use utensils are used in the serving of food or drink, they shall be thoroughly washed with hot water and a satisfactory detergent and effectively subjected to an approved bactericidal process after each use, and so handled and kept as to be protected from contamination.

Adequate provisions shall be made for refrigeration of perishable food and drink.

Ice used in or with food or drink shall be from a source approved by the Health Officer and so handled as to avoid contamination; garbage and refuse shall be kept in tightly covered, watertight containers until removed and shall be disposed of in a place and manner approved by the Health Officer.

Dishwater and other liquid wastes shall be so disposed of as not to create a nuisance.

No person known to be suffering from any disease transmissible by contact or through food or drink, or to be a carrier of the germs of such a disease, shall be employed in any capacity.

Adequate and satisfactory toilet and hand-washing facilities shall be readily accessible to employees.

No person engaged in the handling or serving of food or drink shall return to his work, after using the toilet, without first thoroughly washing his hands.

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